

GOVERNMENT OF MYSORE

LABOUR AND MUNICIPAL ADMINISTRATION DEPARTMENT (LABOUR)

Labour Dispute.—Industrial Dispute between the Workmen and the Management of B.C.C. Stores Ltd., Bellary.

Award of the Labour Court, Hubli, published.
Read the following papers —

(1) Letter No 1318/66-67, dated 31st October 1966, from Shri Syed Azizuddin Ahmed, Presiding Officer, Labour Court, Hubli.

IN THE LABOUR COURT AT HUBLI.

Dated 31st October 1966.

Reference (ID) (LCH) No. 22 of 1966.

Present:

Shri Syed Azizuddin Ahmed, M.A., B.L.,

Presiding Officer

Between :

The Workmen of B.C.C. Stores Ltd., Bellary. ... *I Party.*

and

The Management of B.C.C. Stores Ltd., Bellary.... *II Party.*

This is a Reference under section 10 (1) (c) of the Industrial Disputes Act, 1947, made by the Government of Mysore, in their Order No. LMA 562 LLD 65, dated 11th March 1966. The points of dispute referred for adjudication are as under:

- (i) Whether the dismissal of Sri P. Govindachar an ex-employee of the management for the loss of Rs. 9,000 by the management known as B.C.C. Stores Ltd., Bellary is in order or not?
- (ii) If not what are the reliefs he is entitled to?
- (iii) Whether the action of the management known as B.C.C. Stores Ltd., Bellary in dismissing Sri Neelakantappa for a simple and simple mistake of attending office late from service even after submitting his explanation in the face of the office note dated 20th August 1960 is in order or not?
- (iv) If not what are the benefits he is entitled to as per the Wage Board Recommendations for Sugar Industry?

(2) After registering the reference, notices were issued to both the parties to file their claim and counter-statement respectively. The claim statement of Govindachar dated 7th May 1966 is not germane to the matter in issue, a fact which has been admitted by his representative Sri Dasan Solomon. The claim statement of Neelakantappa dated 9th May 1966 is of the same nature. Later on 5th October 1966 Sri Dasan Solomon filed two separate claim statements in the shape of affidavits in respect of both the aggrieved workmen. The Second Party filed its counter statement dated 23rd June 1966 in the matter of Govindachar and a separate counter statement dated 20th May 1966 relating to Neelakantappa.

(3) In addition to the points of dispute mentioned in the order of reference, the following additional issue was raised.

1. Does the first party prove that the dismissal of Sri Govindachar and Sri Neelakantappa effected by the management without holding domestic enquiry is in violation of the principles of natural justice?

(4) It may be stated at the outset that both the parties declined to lead oral evidence. They argued the case on the basis of the documentary evidence. I shall first discuss the case of Govindachar. There is not much dispute on the factual aspect of the case. It is a common ground that on 28th March 1963 Govindachar was functioning as an incharge cashier of the second party. On this fateful day he carried a sum of Rs 20,000 in the shape of currency notes for remittance in the State Bank of Mysore, Bellary Branch situated in the building of the second party. The amount comprised of 3 bundles in currency notes, one bundle consisted of 100 notes and the second of 90 notes of 100 rupee denomination and the third bundle consisted of 100 notes of 10 rupee denomination. During the process of remittance, one bundle consisting of 90 notes (of a sum of Rs. 9000) mysteriously disappeared. The circumstances under which it disappeared may well be described in the words of Govindachar himself. In this connection I shall refer to his application of even date made to the Secretary B. C. C. Stores Ltd. Bellary marked Ex. W-6 (a). The relevant excerpt is marked Exh. W-6 (b). It reads thus:—

“I took at about 12-00 NOON Rs. 20,000 in 3 bundles containing 190 number of 100 rupee note in two bundles of 100 and 90 respectively and 100 numbers of

10 rupee notes, these particulars are noted by me in the challan as follows :—

100×190	19,000-00
10×100	1,000-00
	—————
	20,000-00
	—————

I took separately 10 rupee note to remit the Challan amount of Rs. 9-23. I went to the second receiving counter since there was rush with the first counter in which I remitted Rs. 25,000 in the morning. The shroff then was counting cash remitted by some other party and after completing his transaction, I gave him a challan of Rs. 9-23 with a 10 rupee note. He did not return the balance as he had no change. Then I placed the three bundles containing Rs. 20,000 as noted above before the shroff. Even I did so another person offered some amount for remittance to the said shroff. Just then my attention was diverted by one man aged about 26 years, a Hindu speaking in Tamil enquired me about a defaced one rupee note thereby distracted my attention from my 3 bundles placed before shroff. Just about the same time I was also asked by one Siddappa, clerk of Vitta Dodda Hanumanthappa, Subbiah Setty and Co., Bellary whether I would receive the cash of sugar, for which I replied I would receive only after my meals i.e., after 2-30 P.M. In the meanwhile, the shroff informed me that there are only two bundles containing of Rs. 11,000 only of 100×100 and Rs. 10×100 notes and asked me to verify. I came to my counter in the stores and verified after opening the lock of the counter and found the bundles not left in the counter. I immediately went to the shroff and informed him that I had placed 3 bundles before him that and not two. He said there are only two bundles and asked me to take them back but I refused to do so. The Head Cashier also asked me to verify once again in my counter which I did. Then our office Manager came and made enquiries in the matter. I am bringing this instance to your kind notice.

I suspect that this loss of one bundle containing 90 hundred rupee notes should have been taken place when my attention was diverted.

Yours faithfully,

(Sd.) P. Govindachar,

Attested:

Sd/—B. Thimmannacharya,

Id.X.X.X. 29/3/63. Sd/—X.X.X.

Circle Inspector of Police,
Bellary."

The matter was duly reported to the Police by the Secretary of the second party. The Police investigated the matter but the culprit could not be traced. Meantime Sri Govindachar was put under suspension as is evidenced by the proceeding of the second party marked Exh. W-10. As per Exh. W-11 he was directed to make good the short cash balance of Rs. 9,000 before 5th May 1963. Later the period was extended to 31st May 1963 as is seen from Exh. W—12. Later the Board of Directors resolved to terminate his services for his gross negligence and write off the lost amount on the strength of legal adviser's report. The General Body meeting of the Second party also endorsed the decision of the Board of Directors. See Exh. M-2 and Exh. M-3 respectively. The stand of Govindachar is that he was not responsible for the loss of Rs. 9,000 on 28th March 1963. The management did not hold the enquiry. He was not served with the charge-sheet and that his services were terminated in a most arbitrary manner. The stand of the second party is that the delinquent should have exercised that degree of prudence and sense of duty as the occasion demanded. It is a clear case of gross negligence which resulted in a loss of Rs.9,000/-The aggrieved workman is not entitled to any relief asked for. The Board has already taken a liberal view of the matter. There is no denying of the fact that the second party did not hold any domestic enquiry in the matter. The most important point for determination is whether in the admitted circumstance of the case it was incumbent upon the management to serve a charge-sheet upon the delinquent and to hold a domestic enquire. Sri Dasan Solomon, the learned representative of the delinquent workmen argued that the order of dismissal is vitiated on this score and is fit to be quashed. Sri A.A. Khudus, the

learned representative of the second party took me through the documentary evidence in the case and argued that in the admitted facts and circumstance of the case it would have been nothing short of an exercise in futility to serve a charge-sheet and to hold the domestic enquiry. There was nothing for the management to hold an enquiry. He stressed that Sri Govindachar who had carried such a huge amount for remittance to the Bank did not exercise due care and caution. He allowed his attention to be distracted by some riff-raff who knocked off the amount. The delinquent admits towards the end of his application that he suspects that this loss of one bundle containing 10 hundred rupee notes should have been taken place when his attention was diverted. He stated that the management was compassionate and over generous in writing off the amount. The management could not be expected to continue Sri Govindachar any more in their service. I gave my earnest consideration to the arguments canvassed on both sides. I find much force in the arguments of Sri A.A. Khuddus the learned representative of the second party that in the admitted facts and circumstances of the case it was not incumbent upon the second party to hold a domestic enquiry. For what purpose should the domestic enquiry be held when the delinquent stands self condemned by his submission. After all a domestic enquiry is held to determine the guilt of the delinquent. When on his own admission the delinquent is found to be guilty of imprudent act or behaviour there is nothing further left for the management to establish it. I find that Shri Govindachar had not acted like a reasonable and prudent man. When he had carried such huge amount to the Bank for remittance, he should have been very watchful and wary. The management i.e., the Board of Directors and the general body gave their careful consideration to the explanation offered by him. Having given due consideration to all the facts and circumstances of the matter they thought it best to dismiss him from service. While doing so they showed him the utmost leniency and consideration by writing off the amount.

(5) The point for consideration is whether the order of dismissal passed without serving a charge-sheet and without holding a domestic enquiry would be proper. In a ruling reported in 1959 (2) LLJ P. 635 it has been held that the dismissal of workman without any charge-sheet or enquiry was justified. Similarly in a decision reported in 1956 (II) F.J.R. page 217/229 it has been held that the order of dismissal was not vitiated by the

absence of a formal charge-sheet. Thus on a overall consideration of the entire material on record and in view of the admitted facts and circumstances of the case I hold that there are no sufficient grounds to interfere with the order of dismissal passed by the second party.

(6) I shall next consider the case of Neelakantappa, Peon of the second party. This is a very simple matter. Admittedly he came to the office late on 20th May 1960. His explanation was called for by the second party. He offered his explanation as per Exh.W.3. Herein he explained that he had been asked to attend office from 10-30 A.M. It being the last Saturday of the month he was a bit late and that his late coming may be condoned. This did not find favour with the second party. Thereupon the second party passed the order of dismissal. It runs thus, "Peon Neelakantappa has not been discharging his duties properly. Further he has been absenting from duty frequently without permission in spite of several warnings. He is therefore dismissed from service with immediate effect". The second party appears to have been influenced by extraneous considerations. There was absolutely nothing on record to show that Neelakantappa was absenting himself from duty frequently without permission. To say the least the order of dismissal is highhanded. It is harsh and severe and disproportionate to the situation. However it has been admitted before me that now he has secured a job in the P. W. D. From his affidavit it transpires that he joined the service of the second party on 17th October 1959 and was dismissed on 11th January 1961. He has put in a service of just a little over one year. I feel that it would meet the ends of justice if he is allowed Rs. 100 as compensation for the termination of his services. On the additional issue framed I hold that there was no violation of the principles of natural justice in not holding the domestic enquiry in view of the admitted facts and circumstances of the case. No arguments were advanced about the Wage Board Recommendations.

AWARD

- (i) I hold that the dismissal of Sri P. Govindachar Ex-employee of the B. C. C. Stores Ltd., Bellary is in order. He is not entitled to any relief.

- (ii) I hold that the action of the management in dismissing Sri Neelakantappa from service is not in order. However, in view of the fact that he has already secured a job in the P. W. D. it would meet the ends of justice if he is allowed Rs. 100 as compensation. The Second Party is directed to pay Sri Neelakantappa a sum of Rs. 100 within 15 days of the publication of this award in the Official Gazette. No order as to costs.

Place : Hubli

Dated 31-10-1966.

SYED AZIZUDDIN AHMED,
Presiding Officer,
Labour Court, Hubli.

ANNEXURE

List of Witnesses examined for the I Party

Nil

List of Witnesses examined for the II Party

Nil

List of Documents marked for the I Party

Exhibits :—

- W—1 Copy of dismissal order, dated 11th January 1961 of Neelakantappa.
- W—2 Copy of explanation called for by second party dated 22nd August 1960 from Neelakantappa.
- W—3 Copy of explanation submitted by Neelakantappa on 24th August 1960.
- W—4 Copy of office note, dated 20th August 1960 in respect of Neelakantappa.
- W—5 Copy of proceedings, dated 13th May 1960 fixing the salary of Neelakantappa.
- W—6 } Copy of the record of enquiry conducted by the
- W—6(a) } Bellary Town Police Station in respect of
- W—6(b) } P. Govindachar.
- W—7 Copy of the proceedings, dated 8th July 1964 terminating the services of P. Govindachar, from 28th March 1963.
- W—8 Proceedings of the Chairman of the second party in respect of P. Govindachar, dated 26th September 1964.
- W—9 Copy of Application, dated 28th March 1963, by P. Govindachar addressed to the second party.
- W—10 Copy of the suspension order dated 29th March 1963, issued to P. Govindachar.
- W—11 Copy of the memo, dated 29th April 1963, issued to P. Govindachar by second party.
- W—12 Copy of the memo, dated 29th May 1963, issued to P. Govindachar by second party.
- W—13 Application, dated 7th May 1963, by P. Govindachar addressed to the second party.

List of documents marked for the II Party

- M—1 Copy of the letter, dated 28th March 1963, by the office manager to the Secretary of the second party.
- M—2 Copy (extract) of the proceedings of the Board of Directors of second party held on 30th June 1964, in respect of P. Govindachar.
- M—3 Copy (extract) of the proceedings of the General Body Meeting held on 31st October 1964, in respect of P. Govindachar.
- M—4 Copy of the application, dated 28th March 1963, by P. Govindachar addressed to second party.

SYED AZIZUDDIN AHMED,
Presiding Officer,
Labour Court,
Hubli.

Place : Hubli.
 Date : 31-10-1966